

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-19974
Issue No(s): 2001, 3001
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Baraga County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 29, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payments Worker, and [REDACTED] Program Manager.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits cases due to assets in excess of program limits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a recipient of Medicare Savings Program, Medicaid, and FAP benefits.
2. On October 16, 2013 a telephone interview occurred and the Claimant reported he and his daughter moved.
3. The move was confirmed by a letter from the Claimant's daughter and a statement from the landlord.
4. On October 17, 2013, a Notice of Case Action was issued to the Claimant stating the Medicare Savings Program, Medicaid, and FAP benefit cases would close effective November 1, 2013 due to assets in excess of program limits.

5. On December 11, 2013, the Claimant filed a request for hearing contesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Michigan Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. Real property is counted as an asset. One of the allowable ways to determine the value of real property is the State Equalized Value (SEV) on current property tax records multiplied by two. BEM 400

The asset limit for FAP is \$5,000, the asset limit for the Medicare Savings Program is \$7,080 for an asset group of one, and the asset limit for SSI related Medicaid is \$2,000 for a group of one.

A homestead is where a person lives. For FAP and SSI related MA, only one homestead can be excluded for an asset group. However, in some circumstances a homestead can remain excluded when the owner is absent. For SSI related MA, a homestead that an owner formerly lived in can be excluded when the owner intends to return to the homestead. For FAP, for the homestead to continue to be excluded the owner must intend to return and be absent for one of the following reasons: vocational rehabilitation training; inability to live at home due to a verified health condition; migratory farm work; care in a hospital; temporary absence due to employment, training for future employment, illness, or a casualty (example: fire) or natural disaster. BEM 400.

During an October 16, 2013 telephone interview, the Claimant reported he and his daughter moved. (Exhibit A, page 3) The move was confirmed by a letter from the Claimant's daughter and a statement from the landlord. (Exhibit A, pages 21-23)

Accordingly, the Department no longer excluded the Claimant's homestead, counted this asset and determined the Claimant was over the asset limits for the MA and FAP programs. The SEV value of the property was \$ [REDACTED] from the 2012 winter tax bill. (Exhibit A, page 4) Thus the countable value of this asset was \$ [REDACTED]. This exceeds the asset limits for the MA and FAP programs.

The Claimant testified that this was only going to be a temporary move for the winter as the camp had no heat or water, only gas. The Claimant explained that he needs the MA and FAP benefits, and moved back to the camp about two weeks prior to the January 29, 2014 hearing date.

The evidence does not establish that the information available to the Department indicated the Claimant intended to return to the homestead. The note from the telephone interview does not indicate the Claimant reported his move to the Department was a temporary move for the winter. (Exhibit A, page 3) The letter from the Claimant's daughter also does not indicate this was a temporary move for herself and the Claimant. Rather the letter indicates the Claimant's income was being considered in determining the ability to pay the bills. This letter further indicates the move was necessary to have a home suitable for not just the two adults but also for the Claimant's daughter's children to be returned to her. (Exhibit A, pages 21-22) The statement from the landlord verifies that the Claimant and his daughter would be paying the rent. (Exhibit A, page 23) Accordingly, the Department properly re-determined the Claimant's eligibility for Medicare Savings Program, Medicaid, and FAP benefits considering the property as an asset, and not excluded as a homestead, based on the available information. Lastly, even if the move had been reported as temporary with the intent for the Claimant to return to the homestead, the Claimant's absence was not for one of the allowable reasons for the homestead to continue to be excluded for FAP as set forth in the above cited policy.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed the Claimant's MA and FAP benefit cases due to assets in excess of program limits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CL/hj

cc:

